



IN THE UNITED STATES PATENT AND TRADEMARKS OFFICE

Inventor: Siegel
Filed: 02/08/2002
Serial No.: 10/072,432
For: Process and Composition for Removing Biofilm

Examiner: El-Arini
Art Unit: 1746

Mail Stop – Amendment – No Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Dear Sir:

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Date: December 27, 2005
Docket No.: 1050-5

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John Lezdey 12-27-05

Respectfully submitted,

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Response

Responsive to the Official Action mailed November 28, 2005.

Reconsideration is respectfully requested of the rejection of the claims under 35 USC 103(a) as being unpatentable over Rajaiah et al in combination with Waggoner.

The present application has a priority of application Serial No.: 09/608,046 filed 08/30/2000 which is earlier than the filing date of Rajaiah provisional application of 03/19/2001.

In application Serial No. 09/608,048 the Examiner in the restriction requirement stated that the method claimed related to the cleaning of water lines with an acidic solution containing an alkali metal iodide and to compositions therefore.

Serial No. 09/608,046, page 13, lines 16-22 of the original text contained reference to biofilm studies which were found in application Serial No. 10/072,432.

Claim 25 of application Serial No. 10/072,432 which is a RCE of Serial No. 09/608,046 further supports that applicants are entitled to the earlier priority date. Claim 25 was maintained so that the inventorship was maintained.

It is noted that in the examination of Serial NO. 10/072,432, Examiner Carrillo had indicated the allowability of claim 16 which related to removing biofilm from a medical unit water line using a composition containing sodium iodide, citric acid, sodium carbonate and sodium persulfate. The applicants filed a later C-I-P because they discovered that sodium persulfate was not required and further degraded the composition over time. The present application is primarily an expansion of the initial invention to obtain patent protection to the extent applicants were entitled to claim.

Full faith and credit is requested for the examination by Examiner Carrillo.

Consequently, the Rajaiah et al reference is not a proper reference since applicants are entitled to an earlier filing date.

Even if Rajaiah were a proper reference, applicants submitted that Rajaiah et al does not teach or suggest the present invention.

The Examiner is requested to view the entire teachings of the reference and not just isolated teachings. An essential feature of the reference is the use of polybutene including dimethicone copolyol which would cause blockage in medical lines. The teachings relate to denture cleaning with an effervescence generator in a vessel. The reference specially names the compositions as “denture cleaning pastes”. (See Examples VI to VIII). Moreover, polybutene is used for its “adhesive properties.”

The reference teaches away from compositions for cleaning medical lines.

Waggoner by itself does not teach or suggest applicants’ composition. There is no composition in the reference containing an alkali metal iodide. The reference relates to use of a bactericide in combination with a pump. The combination with Rajaiah

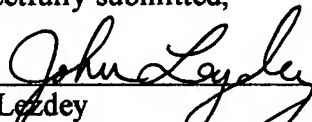
would not provide a workable pump for Waggoner. The polybutene of Rajaiah et al would clog the pump of Waggoner. The two references are not compatible. Moreover, Waggoner adds nothing to the teachings of Rajaiah et al since Rajaiah is concerned with a dental composition which adheres to dentures. There is the difference of free flow in Waggoner versus the adherence required by Rajaiah et al.

In summary, Rajaiah et al is not a proper reference. Even if it was a proper reference its teaching cannot be used to make obvious the instant invention. The secondary reference adds nothing to the teachings of Rajaiah which would lead to the presently claimed invention nor would its combination with Rajaiah et al lead one in the art to arrive at the invention claimed.

It is submitted that in order to arrive at a rejection of obviousness the Examiner has used the present invention as a template and has taken isolated teachings from the prior art using prohibitive hindsight to arrive at the instantly claimed invention. However, the Examiner has still failed to show that the prior art combination teaches the specific combination and amounts claimed to arrive at a method for removing biofilm from medical devices or medical lines utilizing the combination claimed by the applicants.

Reconsideration and favorable action are earnestly solicited.

Respectfully submitted,



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